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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| | Application No. | Applicant(s) |
| **Office Action Summary** | 10/539,379 | KELLY, DECLAN P |
| | Examiner | Art Unit |
| | ASHLEY D. TURNER | 2154 |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *22 June 2008*.
2a)☒ This action is **FINAL**.  2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-20* is/are pending in the application.
　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-20* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
　　a)☐ All　b)☐ Some * c)☐ None of:
　　　1.☐ Certified copies of the priority documents have been received.
　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.
　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
　　* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date *6/15/2005*.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

## DETAILED ACTION

### *Claim Objection*

The Examiner withdraws the claim objection so Applicant's arguments are moot.

### *Claim Rejections - 35 USC § 103*

1.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

2.      Claim 1, 2 4, 5, 13, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Um (U.S.6, 490,408 B1) in view of Sims (US 6,438,235 B2).

Referring to claim 1 Um discloses  A device that interfaces with a remote network, the device

comprised of: a media reader; an application configured to control playback of content from a

medium when inserted in the media reader, ( Col. 2 lines 20 -37 It is primary objective of the

present invention to solve the above mentioned problems of the conventional video title rental

system and to provide a reproducing apparatus, which is composed of an information –stored

medium requiring remote playback permission, a player for the information –stored medium, and

communication device, for enabling a remote a remote rental –stored medium and offering

advertisements to customers continuously. The apparatus according to the present invention

comprises an information –stored medium on which data are contained together with a ID code;

and an external device which communicates with a remote central server for playback

permission and processes the data the are read out from the information-stored medium after

playback permission.). Um did not disclose the application configured to play back content from

the medium based upon control commands including advertising that is received from a service

via the remote network. The general concept of the application configured to play back content

from the medium based upon control commands including advertising that is received from a

service via the remote network is well known in the art as taught by Sims. Sims discloses the

application configured to play back content from the medium based upon control commands

including advertising that is received from a service via the remote network ( Col. 1 lines 64 –

Col2 lines 1-14 Accordingly, for the system to provide protection to the content, the media

decryption key stored on the media is read by a media reader, i.e., DVD disk drive, only in

proper circumstances, i.e., an authorized play back device requests the media content key

according to a pre established protocol, and thereafter, provided in encrypted form for

communication to the play back device. In this scheme, the media content key is passed after a

key exchange is done such that when the key is handed from the media reader to the play back

device it is done encrypted. I.e., the play back device would send its encryption key to the media

reader, the media reader would read the media content key from the media, encrypt the media

content key with the play back device's encryption key, and pass this encrypted version of the

media content key to the play back device where it may be decrypted with the play back device's

(secretly held) decryption key for use of the media content key in accessing media content as

provided by the media reader. I t would have been obvious to one of ordinary skill in the art at

the time of the invention to modify Um to include the application configured to play back

content from the medium based upon control commands including advertising that is received

from a service via the remote network in order to reduce the overload of the public

communication network.

Referring to claim 2 Um and Sims discloses all the limitations of claim 2 which is described

above. Um also discloses wherein the media reader is one selected from the group of optical disc

drive, magnetic disc drive, and a flash memory card interface. (Col.1 lines 34-39 Fig.1 depicts a

block diagram of a conventional optical disc player. It includes an optical disc 1 which contains

audio/and or video data; and optical pickup/servo-controller 3 for reading out the audio/video

data ; a disc controller for controlling the rotation of the disc for accurate read-out operation.)

Referring to claim 4 Um and Sims discloses all the limitations of claim 4 which is described

above. Um also disclose wherein the received control commands control at least one of the

selection and order of content played back by the application. (Col. 2 lines 20 -37 It is primary

objective of the present invention to solve the above mentioned problems of the conventional

video title rental system and to provide a reproducing apparatus, which is composed of an

information –stored medium requiring remote playback permission, a player for the information

–stored medium, and communication device, for enabling a remote a remote rental –stored

medium and offering advertisements to customers continuously. The apparatus  according to the

present invention comprises an information –stored medium on which data are contained

together with a ID code; and an external device which communicates with a remote central

server for playback permission and processes the data the are read out from the information-

stored medium after playback permission.)

Referring to claim 5 Um and Sims discloses all the limitations of claim 5 which is described

above Um also discloses wherein playback of a received advertisement is required prior to

playback of content from the medium. (Col. 2 lines 20 -37 It is primary objective of the present

invention to solve the above mentioned problems of the conventional video title rental system

and to provide a reproducing apparatus, which is composed of an information –stored medium

requiring remote playback permission, a player for the information –stored medium, and

communication device, for enabling a remote a remote rental –stored medium and offering

advertisements to customers continuously. The apparatus according to the present invention

comprises an information –stored medium on which data are contained together with a ID code;

and an external device which communicates with a remote central server for playback

permission and processes the data the are read out from the information-stored medium after

playback permission.)

Referring to claim 13 Um and Sims discloses all limitations of claim 13 which is described

above. Um's also discloses a computer program stored on a computer readable memory

medium, the program being configured to control playback of content from a medium based

upon advertising content that is received from a remote device. ( Col. 2 lines 20 -37 It is primary

objective of the present invention to solve the above mentioned problems of the conventional

video title rental system and to provide a reproducing apparatus, which is composed of an

information –stored medium requiring remote playback permission, a player for the information

–stored medium, and communication device, for enabling a remote a remote rental –stored

medium and offering advertisements to customers continuously. The apparatus  according to the

present invention comprises an information –stored medium on which data are contained

together with a ID code; and an external device which communicates with a remote central

server for playback permission and processes the data the are read out from the information-

stored medium after playback permission.)


Referring to claim 14 Um and Sims discloses all limitations of claim 14 which is described

above. Um's also discloses wherein the content from the medium is at least one of audio content

and video content. (Col.1 lines 34-39 Fig.1 depicts a block diagram of a conventional optical disc

player. It includes an optical disc 1 which contains audio/and or video data; and optical

pickup/servo-controller 3 for reading out the audio/video data ; a disc controller for controlling

the rotation of the disc for accurate read-out operation.)


Referring to claim 15 Um and Sims discloses all limitations of claim 15 which is described

above. Um's also discloses wherein program is configured to control at least one of the selection

and order of content played back from the medium in response to the advertising content. (Col. 2

lines 20 -37 It is primary objective of the present invention to solve the above mentioned

problems of the conventional video title rental system and to provide a reproducing apparatus,

which is composed of an information –stored medium requiring remote playback permission, a

player for the information –stored medium, and communication device, for enabling a remote a

remote rental –stored medium and offering advertisements to customers continuously. The

apparatus according to the present invention comprises an information –stored medium on which

data are contained together with a ID code; and an external device which communicates with a

remote central server for playback permission and processes the data the are read out from the

information-stored medium after playback permission.)

Referring to claim 16 Um and Sims discloses all limitations of claim 16 which is described

above. Um's also discloses wherein playback of a received advertisement is required prior to

playback of content from the medium. (Col. 2 lines 20 -37 It is primary objective of the present

invention to solve the above mentioned problems of the conventional video title rental system

and to provide a reproducing apparatus, which is composed of an information –stored medium

requiring remote playback permission, a player for the information –stored medium, and

communication device, for enabling a remote a remote rental –stored medium and offering

advertisements to customers continuously. The apparatus  according to the present invention

comprises an information –stored medium on which data are contained together with a ID code;

and an external device which communicates with a remote central server for playback

permission and processes the data the are read out from the information-stored medium after

playback permission.)

3.      Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Um (U.S.6,

490,408 B1) in view of Sims (US 6,438,235 B2) further in view of Hanevich (US 6,792,295).

4.

Referring to claim 2 Um discloses all the limitations of claim 3 which is described above. Um

did not disclose wherein the device is a portable wireless device that receives control commands

from the service via a wireless coupling. The general concept of wherein the device is a portable

wireless device that receives control commands from the service via a wireless coupling is well

known in the Hanevich. Hanevich taught wherein the device is a portable wireless device that

receives control commands from the service via a wireless coupling. (Col.1 lines 48-63 FIG. 1 is

a block diagram of a communications system shown generally as 10 in an exemplary

embodiment of the invention. The communications system includes a vehicle embedded cellular

phone subsystem 12 and associated antenna 14 for receiving incoming calls and sending

outgoing calls from and to a cellular station as is known in the art. An audio switch 16 couples a

wireless device subsystem and a vehicle hands free subsystem to each other and to the vehicle

embedded cell phone subsystem 12. The wireless device subsystem includes a base station 20, an

antenna 22 and a portable, wireless handset 23. In an exemplary embodiment, the handset 23 and

base station 20 communicate using a 900 MHz, spread spectrum technique or other short range

secure wireless technology. The vehicle hands free subsystem includes a vehicle hands free

audio processor 18, a microphone 28, an audio amplifier 24 and a speaker 26. As is known in the

art, audio output is provided to the user through audio amplifier 24 and speaker 26. The vehicle hands free audio processor 18 receives communications and commands from the user through microphone 28.) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Um to include wherein the device is a portable wireless device that receives control commands from the service via a wireless coupling in order to reduce the overload of the public communication network.

5.　　　Claims 6, 7, and 8-12 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Um (U.S.6, 490,408 B1) in view Sims (US 6,438,235 B2) further in view of Burnett (US 2003/0224759 A1).

Referring to claim 6 Um discloses all the limitations of claim 6 which is described above. Um did not disclose wherein selection of portions of content for playback is selectable by a user, the application configured to monitor content selection and to transmit indicia of content selection to the remote network. The general concept of wherein selection of portions of content for playback is selectable by a user, the application configured to monitor content selection and to transmit indicia of content selection to the remote network is well known in the art as taught by Burnett. Burnett discloses wherein selection of portions of content for playback is selectable by a user, the application configured to monitor content selection and to transmit indicia of content selection to the remote network. ( Pg. 2[0021] [0021] As the user 118 scans through the selections, he plays some songs on the CD for a short while (e.g. a song scanning interval), skip others, and then

listen to entire tracks whenever a favorite recording is encountered. Those skilled in the art will realize, therefore, that some user activities 114, such as turning up the volume well past the normal listening level, or refraining from changing to another track on the CD until after a particular song has ended, can be considered as positive indications by the user 118 that the selected content 116 includes some desired characteristic. When such positive indications are noted, as defined by the user 118, or some other entity, the preferences associated with the activity 114 are stored in the storage module 104. Similarly, negative indications may serve to indicate undesirable content (to be rejected in the future by the selection module 108). Such negative indications, which may also cause user preferences derived from them to be recorded in the storage module 104, include: viewing or listening to a content selection for a very short time (e.g. less than 20 seconds), skipping a selection completely when selections are offered in a sequential format (e.g. songs on a CD), or viewing titles of various content, and failing to select any particular content from available offerings (e.g. scanning through a listing of available satellite television offerings without viewing the actual content). Thus, for the purposes of this document, activities are defined as any action on the part of a user which can be monitored by the apparatus 100 during the presentation of selected content to the user.) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Um to include wherein selection of portions of content for playback is selectable by a user, the application configured to monitor content selection and to transmit indicia of content selection to the remote network in order to reduce the overload of the public communication network.

Referring to claim 7 Um discloses all the limitations of claim 7 which is described above Um did

not disclose wherein selection of portions of content for playback is controllable by the

application, the application configured to monitor indicia of user preferences with regard to

currently playing content and to transmit indicia to the remote network. The general concept of

wherein selection of portions of content for playback is controllable by the application, the

application configured to monitor indicia of user preferences with regard to currently playing

content and to transmit indicia to the remote network is well known in the art as taught by

Burnett. Burnett disclose wherein selection of portions of content for playback is controllable by

the application, the application configured to monitor indicia of user preferences with regard to

currently playing content and to transmit indicia to the remote network. ( Pg. 2[0021] [0021] As

the user 118 scans through the selections, he plays some songs on the CD for a short while (e.g. a

song scanning interval), skip others, and then listen to entire tracks whenever a favorite recording

is encountered. Those skilled in the art will realize, therefore, that some user activities 114, such

as turning up the volume well past the normal listening level, or refraining from changing to

another track on the CD until after a particular song has ended, can be considered as positive

indications by the user 118 that the selected content 116 includes some desired characteristic.

When such positive indications are noted, as defined by the user 118, or some other entity, the

preferences associated with the activity 114 are stored in the storage module 104. Similarly,

negative indications may serve to indicate undesirable content (to be rejected in the future by the

selection module 108). Such negative indications, which may also cause user preferences derived

from them to be recorded in the storage module 104, include: viewing or listening to a content

selection for a very short time (e.g. less than 20 seconds), skipping a selection completely when

selections are offered in a sequential format (e.g. songs on a CD), or viewing titles of various

content, and failing to select any particular content from available offerings (e.g. scanning

through a listing of available satellite television offerings without viewing the actual content).

Thus, for the purposes of this document, activities are defined as any action on the part of a user

which can be monitored by the apparatus 100 during the presentation of selected content to the

user.) It would have been obvious to one of ordinary skill in the art at the time of the invention to

modify Um to wherein selection of portions of content for playback is controllable by the

application, the application configured to monitor indicia of user preferences with regard to

currently playing content and to transmit indicia to the remote network in order to reduce the

overload of the public communication network.

Referring to claim 8 Um discloses all the limitations of claim 8 which is described above. Um

did not disclose wherein the indicia include at least one of a level of content playback and a user

provided indicia. The general concept of wherein the indicia include at least one of a level of

content playback and a user provided indicia is well know in the art as taught by Burnett. Burnett

discloses wherein the indicia include at least one of a level of content playback and a user

provided indicia. (Pg. 2 [0017] For the purposes of this document, user preferences are defined

as any characteristic of a particular content selection which can be classified, measured, or

recorded, including but not limited to: a genre, an author, a performer, a company, a media type,

a rating, a publication date, a retail sales price, and a playback time. It should be noted that such

preferences tend to be relatively permanent, in that a group of preferences associated with a

particular content selection will always result in choosing (at least) the associated content from

among several content offerings.) It would have been obvious to one of ordinary skill in the art at

the time of the invention to modify Um to include wherein the indicia include at least one of a

level of content playback and a user provided indicia in order to reduce the overload of the

public communication network.


Referring to claim 9 Um discloses all the limitations of claim 9 which is described above. Um

did not disclose wherein the application is configured to play back portions of content only up to

a predetermined number of times. The general concept of wherein the application is configured

to play back portions of content only up to a predetermined number of times as taught by

Burnett. Burnett discloses wherein the application is configured to play back portions of content

only up to a predetermined number of times. (Pg. 2 [0022] Each user preference can be acquired

by way of a user preference acquisition module 128, which can take the form of a keypad

memory, a volume control monitor, etc. The user preference acquisition module 128 is typically

designed to change analog signal levels to digital levels, or to otherwise convert monitored user

activities 114 into appropriate indications which assist in making a determination as to whether

particular preferences 112 will be stored in the user preference storage module 104. An example

of such operation might be monitoring playback times for music selections, and triggered storage

of all preferences 110 associated with any selections 116 which exceed three minutes of

playback time.) It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Um to include wherein the application is configured to play back portions of

content only up to a predetermined number of times in order to reduce the overload of the public

communication network.

Referring to claim 10 Um discloses all the limitations of claim 10 which is described above. Um

did not disclose wherein the advertisements are configured to only enable playback of content for

a predetermined time period. The general concept of wherein the advertisements are configured

to only enable playback of content for a predetermined time period is well known in the art as

taught by Burnett. Burnett disclose wherein the advertisements are configured to only enable

playback of content for a predetermined time period. (( Pg. 2[0021] [0021] As the user 118 scans

through the selections, he plays some songs on the CD for a short while (e.g. a song scanning

interval), skip others, and then listen to entire tracks whenever a favorite recording is

encountered. Those skilled in the art will realize, therefore, that some user activities 114, such as

turning up the volume well past the normal listening level, or refraining from changing to

another track on the CD until after a particular song has ended, can be considered as positive

indications by the user 118 that the selected content 116 includes some desired characteristic.

When such positive indications are noted, as defined by the user 118, or some other entity, the

preferences associated with the activity 114 are stored in the storage module 104. Similarly,

negative indications may serve to indicate undesirable content (to be rejected in the future by the

selection module 108). Such negative indications, which may also cause user preferences derived

from them to be recorded in the storage module 104, include: viewing or listening to a content

selection for a very short time (e.g. less than 20 seconds), skipping a selection completely when

selections are offered in a sequential format (e.g. songs on a CD), or viewing titles of various

content, and failing to select any particular content from available offerings (e.g. scanning

through a listing of available satellite television offerings without viewing the actual content).

Thus, for the purposes of this document, activities are defined as any action on the part of a user

which can be monitored by the apparatus 100 during the presentation of selected content to the

user.) It would have been obvious to one of ordinary skill in the art at the time of the invention to

modify Um to include wherein the advertisements are configured to only enable playback of

content for a predetermined time period in order to reduce the overload of the public

communication network.


Referring to claim 11 Um discloses all the limitations of claim 11 which is described above. Um

did not disclose wherein selection of portions of content for playback is selectable by a user, the

application configured to monitor content selection and to transmit indicia of content selection to

the remote network. The general concept of wherein selection of portions of content for playback

is selectable by a user, the application configured to monitor content selection and to transmit

indicia of content selection to the remote network is well known in the art as taught by Burnett.

Burnet discloses Wherein selection of portions of content for playback is selectable by a user, the

application configured to monitor content selection and to transmit indicia of content selection to

the remote network. ( Pg. 2[0021] [0021] As the user 118 scans through the selections, he plays

some songs on the CD for a short while (e.g. a song scanning interval), skip others, and then

listen to entire tracks whenever a favorite recording is encountered. Those skilled in the art will

realize, therefore, that some user activities 114, such as turning up the volume well past the

normal listening level, or refraining from changing to another track on the CD until after a

particular song has ended, can be considered as positive indications by the user 118 that the

selected content 116 includes some desired characteristic. When such positive indications are

noted, as defined by the user 118, or some other entity, the preferences associated with the

activity 114 are stored in the storage module 104. Similarly, negative indications may serve to

indicate undesirable content (to be rejected in the future by the selection module 108). Such

negative indications, which may also cause user preferences derived from them to be recorded in

the storage module 104, include: viewing or listening to a content selection for a very short time

(e.g. less than 20 seconds), skipping a selection completely when selections are offered in a

sequential format (e.g. songs on a CD), or viewing titles of various content, and failing to select

any particular content from available offerings (e.g. scanning through a listing of available

satellite television offerings without viewing the actual content). Thus, for the purposes of this

document, activities are defined as any action on the part of a user which can be monitored by

the apparatus 100 during the presentation of selected content to the user.) (Pg. 1[0009] In another

embodiment, user preferences can be transmitted to a user preference manipulation apparatus,

which permits the display and entry of user preferences, as well as deletion and modification.

Preferences can also be stored in a removable, portable storage device which couples to both the

presentation apparatus and the manipulation apparatus. Alternatively, the preferences can be sent

to the manipulation apparatus from the storage module using wireless mechanism, or a wired

network.) It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Um to include wherein selection of portions of content for playback is

selectable by a user, the application configured to monitor content selection and to transmit

indicia of content selection to the remote network in order to reduce the overload of the public

communication network.


Referring to claim 12 Um and Burnett disclose all the limitations of claim 12 which is described

above. Um also discloses wherein the advertisements are played back in between the content

selected for playback. ( Col. 2 lines 20 -37 It is primary objective of the present invention to

solve the above mentioned problems of the conventional video title rental system and to provide

a reproducing apparatus, which is composed of an information –stored medium requiring remote

playback permission, a player for the information –stored medium, and communication device,

for enabling a remote a remote rental –stored medium and offering advertisements to customers

continuously. The apparatus  according to the present invention comprises an information –

stored medium on which data are contained together with a ID code; and an external device

which communicates with a remote central server for playback permission and processes the data

the are read out from the information-stored medium after playback permission.). It would haven

been obvious to one of ordinary skill in the art at the time of the invention to include wherein the

advertisements are played back in between the content selected for playback in order to reduce

the overload of the public communication network.



 Referring to claim 17 Um discloses all the limitations of claim 17 which is described above. Um

did not disclose wherein the program enables selection of portions of content for playback by a

user, the program configured to monitor content selection and to transmit indicia of content

selection to the remote device. The general concept of wherein the program enables selection of

portions of content for playback by a user, the program configured to monitor content selection

and to transmit indicia of content selection to the remote device is well known in the art as taught

by Burnett. Burnett discloses wherein the program enables selection of portions of content for

playback by a user, the program configured to monitor content selection and to transmit indicia

of content selection to the remote device (Pg. 2[0021] [0021] As the user 118 scans through the

selections, he plays some songs on the CD for a short while (e.g. a song scanning interval), skip

others, and then listen to entire tracks whenever a favorite recording is encountered. Those

skilled in the art will realize, therefore, that some user activities 114, such as turning up the

volume well past the normal listening level, or refraining from changing to another track on the

CD until after a particular song has ended, can be considered as positive indications by the user

118 that the selected content 116 includes some desired characteristic. When such positive

indications are noted, as defined by the user 118, or some other entity, the preferences associated

with the activity 114 are stored in the storage module 104. Similarly, negative indications may

serve to indicate undesirable content (to be rejected in the future by the selection module 108).

Such negative indications, which may also cause user preferences derived from them to be

recorded in the storage module 104, include: viewing or listening to a content selection for a very

short time (e.g. less than 20 seconds), skipping a selection completely when selections are

offered in a sequential format (e.g. songs on a CD), or viewing titles of various content, and

failing to select any particular content from available offerings (e.g. scanning through a listing of

available satellite television offerings without viewing the actual content). Thus, for the purposes

of this document, activities are defined as any action on the part of a user which can be

monitored by the apparatus 100 during the presentation of selected content to the user.) It would

have been obvious to one of ordinary skill in the art at the time of the invention to modify Um to

include wherein the program enables selection of portions of content for playback by a user, the

program configured to monitor content selection and to transmit indicia of content selection to

the remote device in order to reduce the overload of the public communication network.

Referring to claim 18 Um discloses all the limitations of claim 18 which is described above. Um

also discloses wherein program controls selection of portions of content for playback, the

program configured to monitor indicia of user preferences with regard to currently playing

content and to transmit indicia to the remote device. The general concept of wherein program

controls selection of portions of content for playback, the program configured to monitor indicia

of user preferences with regard to currently playing content and to transmit indicia to the remote

device is well known in the art as taught by Burnett. Burnett discloses wherein program controls

selection of portions of content for playback, the program configured to monitor indicia of user

preferences with regard to currently playing content and to transmit indicia to the remote device.

(Pg. 2[0021] [0021] As the user 118 scans through the selections, he plays some songs on the CD

for a short while (e.g. a song scanning interval), skip others, and then listen to entire tracks

whenever a favorite recording is encountered. Those skilled in the art will realize, therefore, that

some user activities 114, such as turning up the volume well past the normal listening level, or

refraining from changing to another track on the CD until after a particular song has ended, can

be considered as positive indications by the user 118 that the selected content 116 includes some

desired characteristic. When such positive indications are noted, as defined by the user 118, or

some other entity, the preferences associated with the activity 114 are stored in the storage

module 104. Similarly, negative indications may serve to indicate undesirable content (to be

rejected in the future by the selection module 108). Such negative indications, which may also

cause user preferences derived from them to be recorded in the storage module 104, include:

viewing or listening to a content selection for a very short time (e.g. less than 20 seconds),

skipping a selection completely when selections are offered in a sequential format (e.g. songs on

a CD), or viewing titles of various content, and failing to select any particular content from

available offerings (e.g. scanning through a listing of available satellite television offerings

without viewing the actual content). Thus, for the purposes of this document, activities are

defined as any action on the part of a user which can be monitored by the apparatus 100 during

the presentation of selected content to the user.) It would have been obvious to one of ordinary

skill in the art at the time of the invention to modify Um to include wherein program controls

selection of portions of content for playback, the program configured to monitor indicia of user

preferences with regard to currently playing content and to transmit indicia to the remote device

in order to reduce the overload of the public communication network.

Referring to claim 19 Um discloses all the limitations of claim 19 which is described above. Um

did not disclose wherein the program is configured to play back portions of content only up to a

predetermined number of times. The general concept of wherein the application is configured to

play back portions of content only up to a predetermined number of times as taught by Burnett.

Burnett discloses wherein the application is configured to play back portions of content only up

to a predetermined number of times. (Pg. 2 [0022] Each user preference can be acquired by way

of a user preference acquisition module 128, which can take the form of a keypad memory, a

volume control monitor, etc. The user preference acquisition module 128 is typically designed to

change analog signal levels to digital levels, or to otherwise convert monitored user activities

114 into appropriate indications which assist in making a determination as to whether particular

preferences 112 will be stored in the user preference storage module 104. An example of such

operation might be monitoring playback times for music selections, and triggered storage of all

preferences 110 associated with any selections 116 which exceed three minutes of playback

time.) It would have been obvious to one of ordinary skill in the art at the time of the invention to

modify Um to include wherein the application is configured to play back portions of content only

up to a predetermined number of times in order to reduce the overload of the public

communication network.

Referring to claim 20 Um discloses all the limitations of claim 20 which is described above. Um

did not disclose wherein selection of portions of content for playback is selectable by a user, the

program configured to monitor content selection and to transmit indicia of content selection to

the remote device. The general concept of wherein selection of portions of content for playback

is selectable by a user, the program configured to monitor content selection and to transmit

indicia of content selection to the remote device is well known in the art as taught by Burnett.

Burnet discloses wherein selection of portions of content for playback is selectable by a user, the

program configured to monitor content selection and to transmit indicia of content selection to

the remote device. ( Pg. 2[0021] [0021] As the user 118 scans through the selections, he plays

some songs on the CD for a short while (e.g. a song scanning interval), skip others, and then

listen to entire tracks whenever a favorite recording is encountered. Those skilled in the art will

realize, therefore, that some user activities 114, such as turning up the volume well past the

normal listening level, or refraining from changing to another track on the CD until after a

particular song has ended, can be considered as positive indications by the user 118 that the

selected content 116 includes some desired characteristic. When such positive indications are

noted, as defined by the user 118, or some other entity, the preferences associated with the

activity 114 are stored in the storage module 104. Similarly, negative indications may serve to

indicate undesirable content (to be rejected in the future by the selection module 108). Such

negative indications, which may also cause user preferences derived from them to be recorded in

the storage module 104, include: viewing or listening to a content selection for a very short time

(e.g. less than 20 seconds), skipping a selection completely when selections are offered in a

sequential format (e.g. songs on a CD), or viewing titles of various content, and failing to select

any particular content from available offerings (e.g. scanning through a listing of available

satellite television offerings without viewing the actual content). Thus, for the purposes of this

document, activities are defined as any action on the part of a user which can be monitored by

the apparatus 100 during the presentation of selected content to the user.) (Pg. 1[0009] In another

embodiment, user preferences can be transmitted to a user preference manipulation apparatus,

which permits the display and entry of user preferences, as well as deletion and modification.

Preferences can also be stored in a removable, portable storage device which couples to both the

presentation apparatus and the manipulation apparatus. Alternatively, the preferences can be sent

to the manipulation apparatus from the storage module using wireless mechanism, or a wired

network.) It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Um to include wherein selection of portions of content for playback is

selectable by a user, the program configured to monitor content selection and to transmit indicia

of content selection to the remote device in order to reduce the overload of the public

communication network.


*Conclusion*

Arguments are deemed moot in view of the new grounds of rejection necessitated by the

amendment.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office

action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is

reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashley D. Turner whose telephone number is 571-270-1603. The examiner can normally be reached on Monday thru Friday 7:30a.m.- 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ashley D Turner
Examiner
Art Unit 2154

/Nathan J. Flynn/

Supervisory Patent Examiner, Art Unit 2154